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 APPLICATION NO.
 FILING DATE
 FIRST NAMED INVENTOR
 ATTORNEY DOCKET NO.

 09/651,998
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 ZHENG
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 M4065.0315/P

MM91/0330

THOMAS J D AMICO DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2101 L STREET N W WASHINGTON DC 20037-1526 EXAMINER

TSAI,H

ART UNIT PAPER NUMBER

DATE MAILED:

03/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

		Application No.	Appli	cant(s)
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The second	Office Action Summary	Examiner	Art U	nit
		H. Jey Tsai	2812	
TI Period for F	ne MAILING DATE of this communication	app ars on the cover sh et w	vith the correspo	ndence address
	TENED STATUTORY PERIOD FOR R	FPI Y IS SET TO EXPIRE 1	MONTH(S) FRO	M
THE MA	ILING DATE OF THIS COMMUNICATI	ON.		
after SIX	ns of time may be available under the provisions of 37 C (6) MONTHS from the mailing date of this communication	on.		
 If NO per 	iod for reply specified above is less than thirty (30) days, iod for reply is specified above, the maximum statutory p	period will apply and will expire SIX (6) M	ONTHS from the mailir	ng date of this communication.
 Any reply 	reply within the set or extended period for reply will, by received by the Office later than three months after the	statute, cause the application to become mailing date of this communication, even	if timely filed, may red	uce any
earned pa	atent term adjustment. See 37 CFR 1.704(b).			
1) 🗆 F	Responsive to communication(s) filed on		, (
<u> </u>	his action is FINAL . 2b)		,	
	ince this application is in condition for a		natters, prosecui	tion as to the merits is
	losed in accordance with the practice u			
Disposition	of Claims			*.
· · · · · · · · · · · · · · · · · · ·	aim(s) 1-95 is/are pending in the applic	cation.		
) Of the above claim(s) is/are wit			
	aim(s) is/are allowed.		a	
	aim(s) is/are rejected.		•	*
	aim(s) is/are objected to.			2.5°
	aims <u>1-95</u> are subject to restriction and	d/or election requirement.		
Application				
•	ne specification is objected to by the Ex	•		
		cted to by the Examiner.		•
· — ·	ne proposed drawing correction filed on		∐ disapproved	
12) Th	ne oath or declaration is objected to by t	he Examiner.		
Priority und	ler 35 U.S.C. § 119		•	
13) 🗀 Ad	cknowledgment is made of a claim for fo	oreign priority under 35 U.S.C	c. § 119(a)-(d) o	r (f).
a) □ ¹	All b) Some * c) None of:		-	*
1.	Certified copies of the priority docu	ments have been received.		`
2.	Certified copies of the priority docu	ments have been received in	Application No.	
3.	☐ Copies of the certified copies of the	priority documents have be	en received in th	is National Stage
+ 0	application from the Internation	al Bureau (PCT Rule 17.2(a)).	
	the attached detailed Office action for			
14)∐ Ad	cknowledgement is made of a claim for	domestic phority under 35 U	S.C. § 119(e).	
				,
Attachment(s)			•	
15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s)				
· —	of Draftsperson's Patent Drawing Review (PTO-9			Application (PTO-152)
17) L Informa	ation Disclosure Statement(s) (PTO-1449) Paper	No(s) 20)	•	



Art Unit: 2812

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

1. Claims 76-95, drawn to a semiconductor device, classified in Class 257, subclass 306.

II. Claims 1-75, drawn to process for making semiconductor devices, classified in Class 438, subclass 253.

The inventions are distinct, each from the other because of the following reasons: Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, for example, oxidation layer formed at 300 degree C.

Because these inventions are distinct for the reasons given above and as shown by the above different classifications, the fields of search are not co-extensive and separate examination would be required, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

This application further contains claims directed to the following patentably distinct species in group II invention: A first species of method of forming a capacitor (e.g. claim 1). A second species of method of forming an oxidation layer (e.g. claims 60, 65).

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none are generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry of a general nature or clerical matters or relating to the status of this application or proceeding should be directed to the Group customer service whose telephone number is (703) 306-3329 and Fax number (703) 306-5515. Group receptionist telephone number 703-308-0956.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. Jey Tsai whose telephone number is (703) 308-1374. The examiner can normally be reached on from 7:00 Am to 4:00 Pm., Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (703) 308-3325. The fax phone number for this Group is (703) 305-3431.

hjt .03/30/01

' H. Jey Tsai
Primary Examiner
Patent Examining Group 2800